



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 30th day of August, 1996

In the Matter of

**U.S.-Russia Combination Service Frequency Allocation
96-1672**

Docket OST-

1996

Served September 5,

ORDER TO SHOW CAUSE

Summary

By this order, we propose to formalize allocation of the available frequencies for U.S.-Russia services and to subject those frequencies to our standard dormancy conditions. We also put all U.S. carriers on notice that no additional frequencies can be operated in the U.S.-Russia market without a specific frequency allocation from the Department.

Background

Under the Air Transport Agreement between the United States and Russia (Agreement), up to six combination carriers may operate from a point or points in the United States via intermediate points to Moscow, St. Petersburg, Magadan, Khabarovsk, Vladivostok, Petropavlovsk, and Yuzhno-Sakhalinsk and beyond to China, Hong Kong, South Korea, Singapore and Taiwan; no more than three U.S. combination carriers may operate between any city pair on the routes specified.¹ Operations by designated U.S. carriers are limited to a total of 54 round-trip

¹ The Agreement also provides that airlines operating services between territories of the Parties exclusively under cooperative marketing arrangements, including code-share arrangements, with airlines of the other Party, or with airlines of a third country, shall be designated but shall not be counted against the limits on designations. Furthermore, services operated under cooperative marketing arrangements, including code-share arrangements, between the airlines of the two Parties shall not count against the frequency limitations. Such arrangements operated between airlines of either Party and airlines of a third country, however, shall count for one-half of one frequency for purposes of the frequency limitations. The Annexes to the Agreement expired May 31, 1996. The Annexes have continued to be observed on the basis of comity and reciprocity.

frequencies per week for combination services.² To date, the Department has allocated 49.5 of the available 54 frequencies. Not all of the allocated frequencies, however, are currently being used.

Currently, Alaska Airlines, Inc. operates three weekly flights from Anchorage, serving Magadan, Khabarovsk, Petropavlovsk-Kamchatski, and Vladivostok. Delta Air Lines, Inc. operates 19 weekly flights (14 weekly flights to Moscow and 5 weekly flights to St. Petersburg). Northwest Airlines, Inc. offers services to Moscow and St. Petersburg under a code-share arrangement with KLM Royal Dutch Airlines, using 8.5 weekly frequencies.

United and Lufthansa are authorized to perform services to Russia under their code-share arrangement and hold 7 weekly frequencies for such services. For a short time, United and Lufthansa were able to operate these frequencies but have not been able to obtain renewal of their authority from the Russian government.³

Trans World Airlines (TWA) was certificated and allocated seven weekly frequencies by Order 91-6-2 for services between New York and Moscow. However, TWA operated this service only during the summer of 1992.⁴

By Order 96-2-51, the Department stated that five weekly frequencies would be available to Baltia Air Lines, Inc. to conduct U.S.-Russia service when the Department issued an order to Baltia granting it an effective certificate of public convenience and necessity.⁵

Decision

Collectively, the allocations to carriers for services in the U.S.-Russia market are approaching the frequency limitations under the Agreement. Therefore, we put all U.S. carriers on notice that no additional combination services in the U.S.-Russia market may be operated without the appropriate frequency allocation from the Department. This would also include expanded operations by carriers currently serving the market. In addition, to ensure that U.S. carrier operations do not exceed

² All-cargo services are also limited and have been allocated as follows: Federal Express, 5 frequencies; Evergreen, 3 frequencies; and Polar, 8 frequencies. These frequencies are subject to dormancy conditions.

³ The United/Lufthansa operation was originally approved by the Russian authorities July 4, 1994, and United immediately initiated the code-share service. Subsequently, Russia affirmed its approval of the code-share service by authorizing United's Winter 1994/95 code share schedule on October 28, 1994. On March 31, 1995, however, Russia refused to approve United's U.S.-Moscow summer 1995 code-share schedule and United had to cease code-sharing. (see United's Answer in OST-96-1485)

⁴ TWA has filed an application in Docket OST-96-984 for renewal of its certificate authority for Route 612, authorizing combination services in the New York-Moscow market. That application is currently pending.

⁵ The certificate issued Baltia by Order 96-2-51 stipulated that the authority to operate under the certificate would not become effective until six business days after the Department receives additional documentation. Baltia has until February 1997 to commence actual flying operations or its certificate will be revoked for dormancy.

those provided for under the Agreement, and to ensure that all carriers have a fair opportunity to use the available flights, we have tentatively decided to formalize the allocation of the U.S. carrier U.S.-Russia combination service frequencies. In this regard, we would permit carriers currently operating services in the market, whether or not they received a specific allocation to operate those flights, to retain those frequencies.

Based on the existing operations and allocations, the U.S.-Russia combination service frequencies would be allocated as follows: Alaska, 3 weekly frequencies; Delta, 19 weekly frequencies; TWA, 7 weekly frequencies; Northwest, 8.5 weekly frequencies; and United, 7 weekly frequencies. In addition, pursuant to Order 96-2-51, five weekly frequencies would be reserved for use by Baltia should it commence operations under its certificate for U.S.-Russia scheduled combination services. A total of 4.5 weekly frequencies would remain available for allocation.

We have also tentatively decided that the U.S.-Russia combination service frequency allocations should be subject to our standard 90-day dormancy condition, wherein frequencies will be deemed dormant if they are not operated for 90 days, except where service in the market is seasonal and the service provided is comparable to that provided in the previous year. In all such instances of seasonal service, however, a carrier must notify the Department that its operations are of a seasonal nature; otherwise, the dormancy condition will apply.

The opportunities for U.S. carriers to perform U.S.-Russia combination services are limited, are very valuable, and have been obtained in exchange for valuable route rights for Russian carriers. We believe that the public interest warrants ensuring that these rights be readily available for carriers that are prepared to use them and that frequencies for such services should not be held indefinitely if they are not being used. Under the dormancy condition if flights allocated are not used for 90 days, the frequency allocations expire automatically, and the frequencies would revert to the Department for reallocation so that they will be available for other carriers on an immediate basis should they seek to use them. Thus, carriers allocated flights will have a full opportunity to serve the market; the Department, in turn, retains the important ability to authorize new services quickly should those services not materialize. The ninety days will run from the effective date of a final order in this proceeding with respect to the currently allocated frequencies.

In this connection, the Department has reserved, but not allocated, five frequencies for Baltia to operate U.S.-Russia services once it receives an effective certificate of public convenience and necessity. Baltia must begin actual flying operations within one year of the date of the Department's fitness determination (i.e. February 7, 1997).⁶ Should Baltia not begin services on or before February 7, 1997, the five frequencies reserved for its U.S.-Russia services will become available to the Department for reallocation.

⁶ Upon issuance of an effective certificate from the Department, Baltia will be required to file an application for allocation of the frequencies it intends to operate in the U.S.-Russia market.

We will require that any objections to our tentative decision be filed within 10 days of the date of service of this order, and that answers to any such objections be filed within 7 calendar days thereafter.⁷

⁷ The original filing of any comment, objection, or answer should be on 8½" x 11" white paper using dark ink and be unbound without tabs, which will expedite use of our docket imaging system.

ACCORDINGLY,

1. We direct all interested parties to show cause why we should not issue an order making the proposed allocations, as conditioned, final;
2. Any interested parties having objections to our tentative decisions as set forth in this order should file their objections with the Department's Docket Section (in Docket OST-96- 1672), 400 Seventh Street S.W., Room PL-401, Washington, D.C. 20590, no later than 10 days from the date of service of this order; answers thereto shall be filed no later than 7 calendar days thereafter;
3. If timely and properly supported objections are filed, we will accord further consideration to the matters or issues raised by the objections before we take further action;⁸
4. If no objections are filed, we will deem all further procedural steps to have been waived, and will finalize the actions proposed in this order;
5. We will serve this order on Alaska Airlines, Inc.; Baltia Air Lines, Inc.; Delta Air Lines, Inc.; Northwest Airlines, Inc.; Trans World Airlines, Inc.; and all other U.S. certificated air carriers; the Ambassador of Russia in Washington, D.C.; the United States Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this order is available on the World Wide Web at
<http://www.dot.gov/dotinfo/general/orders/aviation.html>.*

⁸ Since we have provided for objections to our tentative decision, we will not entertain petitions for reconsideration of this order.